IN THE HIGH COURT OF
AT NAINITAL

Criminal Misc. Application No. 12 of 2004

Smt. Suphala Devi & another …Applicant

Versus

State & another …Opposite Party

Hon'ble M.M.Ghildiyal J.

This application u/s 482 Cr.P.C. has been filed by the applicants with a prayer to quash the criminal complaint no. 664 of 1999 Surendra Kumar Vs Smt. Bhagwan Dei, under section 452/504/506 I.P.C. pending in the court of Additional Chief Judicial Magistrate, Roorkee.

It has submitted that suit no. 187 of 1992 was filed by respondent no. 2 in the court of Munsif, Roorkee. During the pendency of the aforesaid suit, respondent no. 2 (now deceased) has filed F.I.R. against the applicants. Since the police station did not entertain the same, therefore, he filed complaint under section 156 (3) Cr.P.C. before the learned A.C.J.M., Roorkee to direct the concerned Police Station to investigate in the case. Final Report was submitted after the investigation. Against the Final Report respondent no. 2 filed protest petition. The Chief Judicial Magistrate has recorded the statement of complainant under section 200-202 Cr.P.C. and took cognizance of the case by summoning the applicants. The applicants have challenged that order passed by the A.C.J.M. before Revisional Court and the Revisional Court has dismissed the revision. Before taking any decision by the Revisional Court, the complaint was died. However, the same fact could not be brought in the knowledge of the Revisional Court.

This 482 Cr.P.C. application has been filed against the order of Revisional Court. The contention of the applicants is that the complainant has already expired, therefore, the complaint may be quashed.

The applicants may approach the lower Court for quashing of the complaint where the case is pending on the ground that the complainant has already expired. The A.C.J.M. Roorkee shall pass necessary order on the application of the applicants. Until and unless the application is disposed the applicants shall not be arrested.

With these directions, the application moved u/s 482 Cr.P.C. is disposed of Stay order, if any, is vacated.

(M.M.Ghildiyal, J.)

16.03.2004
ASWAL